

NEPA COMPLIANCE RECORD FOR CATEGORICAL EXCLUSION (CX)  
CX-NM-060-2003-0097  
Morgan Tools  
NM-108766

BLM Office: Roswell Field Office

Proposed Action Title/Type: Mineral Materials Sale (caliche) from an Existing Pit

Location of Proposed Action: T. 08 S., R. 26 E., NMPM, Sec. : 04, NE¼SW¼

Description of Proposed Action: Morgan Tools has expressed a need for mineral materials (caliche). The material is to be obtained from an existing pit.

Part I: Plan Conformance Review

The proposed action is in accordance with the approved Roswell Resource Management Plan (RMP), and is consistent with existing Bureau policy and guidance.

The proposed action is consistent with State and local government programs, plans, zoning, and applicable regulations. The land is suitable for the proposed use and would not result in any undue or unnecessary environmental degradation.

Part II: NEPA Review

This proposed action qualifies as a categorical exclusion under 516 DM 6, Appendix 5.4, F (10). It has been reviewed and none of the exceptions described in 516 DM 2, Appendix 2, apply.

|                           |                |
|---------------------------|----------------|
| <u>/s/ Al Collar</u>      | <u>4/16/03</u> |
| Al Collar, Geologist      | Date           |
| <u>/s/ Irene Salas</u>    | <u>4/16/03</u> |
| Irene M. G. Salas         | Date           |
| Environmental Coordinator |                |

III. Decision

I have reviewed the proposed action and have determined that the proposed project is in conformance with existing Bureau policy and guidance and that the action is categorically excluded from NEPA documentation. It is my decision to implement the proposed project subject to BLM Standard Terms and Conditions for Mineral Material Sites.

Compliance and Monitoring: The construction phase of this proposed action and subsequent operational phases will be monitored as per regulation.

|                         |                |
|-------------------------|----------------|
| <u>/s/Larry D. Bray</u> | <u>4/17/03</u> |
| Larry D. Bray           | Date           |
| Assistant Field Manager |                |
| Lands and Minerals      |                |

**Exhibit A**  
**NM-108766**  
**CONDITIONS OF APPROVAL**  
**For Surface Disturbing Activities**

General Conditions of Approval

1. The holder shall indemnify the United States against any liability for damage to life or property arising from the occupancy or use of public lands under this authorization.
2. The holder shall comply with all applicable Federal laws and regulations existing or hereafter enacted or promulgated. In any event, the holder shall comply with the Toxic Substances Control Act of 1976, as amended (15 U.S.C. 2601, *et. seq.*) with regard to any toxic substances that are used, generated by or stored on the route or on facilities authorized. (See 40 CFR, Part 702-799 and especially, provisions on polychlorinated biphenyls, 40 CFR 761.1-761.193.) Additionally, any release of toxic substances (leaks, spills, *etc.*) in excess of the reportable quantity established by 40 CFR, Part 117 shall be reported as required by the Comprehensive Environmental Response, Compensation and Liability Act, Section 102b. A copy of any report required or requested by any Federal agency or State government as a result of a reportable release or spill of any toxic substances shall be furnished to the Authorized Officer concurrent with the filing of the reports to the involved Federal agency or State government.
3. The holder agrees to indemnify the United States against any liability arising from the release of any hazardous substance or hazardous waste (as these terms are defined in the Comprehensive Environmental Response, Compensation and Liability Act of 1980, 42 U.S.C. 9601, *et. seq.* or the Resource Conservation and Recovery Act, 42 U.S.C. 6901, *et. seq.*) on this proposed project (unless the release or threatened release is wholly unrelated to the holder's activity on the proposed project). This agreement applies without regard to whether a release is caused by the holder, its agent, or unrelated third parties.
4. If, during any phase of the construction, operation, maintenance, or termination of the authorization, any oil or other pollutant should be discharged, impacting Federal lands, the control and total removal, disposal, and cleaning up of such oil or other pollutant, wherever found, shall be the responsibility of the holder, regardless of fault. Upon failure of the holder to control, dispose of, or clean up such discharge on or affecting Federal lands, or to repair all damages to Federal lands resulting therefrom, the Authorized Officer may take such measures as deemed necessary to control and cleanup the discharge and restore the area, including, where appropriate, the aquatic environment and fish and wildlife habitats, at the full expense of the holder. Such action by the Authorized Officer shall not relieve the holder of any liability or responsibility.
5. Any cultural and/or paleontological resource (historic or prehistoric site or object) discovered by the holder, or any person working on the holder's behalf, on public or Federal land shall be immediately reported to the Authorized Officer. The holder shall suspend all operations in the immediate area of such discovery until written authorization to proceed is issued by the Authorized Officer. An evaluation of the discovery will be made by the authorized officer to determine appropriate actions to prevent the loss of significant cultural or scientific values. The holder shall be responsible for the cost of evaluation and any decision as to the proper mitigation measures will be made by the Authorized Officer after consulting with the holder.
6. The holder is hereby obligated to comply with procedures established in the Native American Graves Protection and Repatriation Act (NAGPRA) to protect such cultural items as human remains, associated funerary objects, sacred objects, and objects of cultural patrimony discovered inadvertently during the course of project implementation. In the event that any of the cultural items listed above are discovered

during the course of project work, the proponent shall immediately halt the disturbance and contact the BLM within 24 hours for instructions. The proponent or initiator of any project shall be held responsible for protecting, evaluating, reporting, excavating, treating, and disposing of these cultural items according to the procedures established by the BLM in consultation with Indian Tribes."

7. The holder shall be responsible for weed control on disturbed areas within the limits of the site. The holder is responsible for consultation with the authorized officer and/or local authorities for acceptable weed control methods.

8. The holder shall be responsible for maintaining the site in a sanitary condition at all times; waste materials at those sites shall be disposed of promptly at an appropriate waste disposal site. "Waste" means all discarded matter including, but not limited to, human waste, trash, garbage, refuse, oil drums, petroleum products, ashes, and equipment.

9. All design, material, and construction, operation, maintenance, and termination practices shall be in accordance with safe and proven engineering practices.

10. The holder shall conduct all activities associated with the construction, operation, and termination of the material pit within the authorized limits.

11. The holder shall minimize disturbance to existing fences and other improvements on public lands. The holder is required to promptly repair impacted improvements to at least their former state. The holder shall contact the owner of any improvements prior to disturbing them. When necessary to pass through a fence line, the fence shall be braced on both sides of the passageway prior to cutting of the fence. No permanent gates shall be allowed unless approved by the Authorized Officer.

12. The holder shall be responsible for the actions and operations of any third party users associated with this authorization. All such use shall be subject to the applicable terms, conditions, and stipulations of this authorization.

13. Suitable topsoil material removed in conjunction with clearing and stripping shall be conserved in stockpiles (within the material site)

14. Excess excavated, unsuitable, or slide material shall be disposed of as directed by the authorized officer.

15. No construction or routine maintenance activities shall be performed during periods when the soil is too wet to adequately support construction equipment.

16. Existing roads and trails on public lands that are blocked as the result of the material pit activities shall be rerouted or rebuilt as directed by the authorized officer.

17. The holder shall recontour the disturbed area and obliterate all earthwork by removing embankments, backfilling excavations, and grading to reestablish the approximate original contour of the land as determined by the authorized officer.

18. The BLM will monitor construction on this material pit site.